



The Lokpal and Lokayuktas Act, 1995

Act 8 of 1995

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Orissa Act 8 of 1995

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SCHEDULES

ORISSA ACT 8 OF 1995

***THE ORISSA LOKPAL AND LOKAYUKTAS ACT, 1995**

[Received the assent of the President on the 8th July, 1995 first published in an extraordinary issue of the *Orissa Gazette*, dated the 15th July 1995]

AN ACT TO MAKE PROVISION FOR THE APPOINTMENT AND FUNCTIONS OF LOKPAL AND LOKAYUKTAS FOR THE INVESTIGATION OF ADMINISTRATIVE ACTION TAKEN BY OR ON BEHALF OF THE GOVERNMENT OR CERTAIN LOCAL AND PUBLIC AUTHORITIES IN CERTAIN CASES AND FOR MATTERS CONNECTED THEREWITH AND MATTER INVOLVING ACTS OF INJUSTICE, CORRUPTION OR FAVOURITISM.

Be it enacted by the Legislature of the State of Orissa in the Forty-sixth year of the Republic of India, as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Orissa Lokpal and Lokayuktas Act, 1995.
- (2) It shall extend to the whole of the State of Orissa.
- (3) It shall come into force on such date as the State Government may, by notification appoint in that behalf.

Definitions

2. In this Act unless the context otherwise requires,
 - (a) "action" means action taken by a public servant in the discharge of his functions as such public servant, by way of decision, recommendation or finding or in any other manner and includes any omission or commission or failure to act and all other expressions connecting action shall be construed accordingly;
 - (b) "allegation" in relation to a public servant means any affirmation that such public servant,—
 - (i) has abused his position as such to obtain any gain of favour to him self or to any other person or to cause undue harm or hardship to any other person;
 - (ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives; or
 - (iii) is guilty of corruption or lack of integrity in his capacity as such public servant;
 - (c) "competent authority" in relation to a public servant, means,—
 - (i) in case of a Minister, Chief Secretary or Secretary . . . The Chief Minister.
 - (ii) in case of any other public servant . . . Such authority as may be prescribed.
 - (d) "corruption" includes anything made punishable under Chapter IX of the Indian Penal Code or under the the Prevention of Corruption Act, 1988;
 - (e) "grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;
 - (f) "Lokpal" means a person appointed as the Lokpal under Section 3;
 - (g) "Lokayukta" means a person appointed as a Lokayukta under Section 3;
 - (h) "maladministration" means action taken or purporting to have been taken in the exercise of administrative function in any case—
 - (i) where such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or
 - (ii) where there has been negligence or undue delay in taking such action, or the administrative procedure or practice governing such action involves undue delay;

46 of 1980.
49 of 1988

* For the Bill see *Orissa Gazette*, Extraordinary, dated the 27th March 1995 (No. 358) came in to force w. e. f. 1st August 1995 vide P. G. P. A. Department Notification No. 4617/P. G. P. A. dated 1st August 1995

(i) "Minister" means a member of the Council of Ministers and includes the Chief Minister, Deputy Chief Minister, a Minister of State, a Deputy Minister and the Leader of Opposition or a Parliamentary Secretary;

(j) "Officer" means a person appointed to a public service or post in connection with the affairs of the State;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "public servant" denotes a person falling under any of the descriptions hereinafter following, namely:—

(i) every Minister referred to in clause (i) ;

(ii) every officer referred to in clause (j) ;

(iii) every person in the service or pay of—

(a) any local authority in the State which notified by the State Government in this behalf;

(b) any Corporation (not being a local authority) established by or under any law or owned or controlled by the State Government;

(c) any Government Company within the meaning of Section 617 of the Companies Act, 1956 in which not less than fifty-one per cent of the paid up share capital is held by the State Government, or any Company which is a subsidiary of a company in which not less than fifty-one per cent of the paid up share capital is held by the State Government; or

(d) any society registered under the Societies Registration Act, 1860 which is subject to the control of the State Government and which is notified by that Government in this behalf.

(m) "Secretary" means a Principal Secretary, a Secretary, a Special Secretary or an Additional Secretary to the State Government.

Appointment
of Lokpal
and Lokayuktas.

3. (1) For the purpose of conducting investigations in accordance with the provisions of this Act, the Governor shall appoint a person to be known as the Lokpal and one or more persons to be known as the Lokayukta or Lokayuktas:

Provided that—

(a) the Lokpal shall be appointed after consultation with the Chief Justice of the High Court of Orissa and the Leader of the Opposition, if there is any;

(b) the Lokayukta or Lokayuktas shall be appointed after consultation with the Lokpal.

(2) A person shall not be qualified for appointment as—

(a) Lokpal unless he is or has been a Judge of the Supreme Court or of a High Court; and

(b) a Lokayukta unless he is qualified to be a Judge of a High Court.

(3) Every person appointed as the Lokpal or a Lokayukta shall, before entering upon his office, make and subscribe, before the Governor, or some person appointed in that behalf by the Governor, an oath or affirmation in the form set out for the purpose in the First Schedule.

(4) The Lokayuktas shall be subject to the administrative control of the Lokpal and, in particular, for the purpose of convenient disposal of investigations under this Act, the Lokpal may issue such general or special directions as he may consider necessary to the Lokayuktas:

Provided that nothing in this sub-section shall be construed to authorise the Lokpal to question any finding, conclusion or recommendation of Lokayukta.

Lokpal or Lokayukta to hold no other office.

4. (1) The Lokpal or a Lokayukta, shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit, (other than his office as the Lokpal or as the case may be, a Lokayukta), or be connected with any political party or carry on any business or practice or any profession.

(2) A person appointed to be the Lokpal or, as the case may be, the Lokayukta shall,—

- (a) if he is a member of Parliament or of the Legislature of any State, resign such membership;
- (b) if he holds any office of trust or profit, resign from such office;
- (c) if he is connected with any political party, sever his connection with it;
- (d) if he is carrying on any business, sever his connections in the conduct and management of such business; or
- (e) if he is practising any profession, suspend to practise such profession.

Term of Office and other conditions of Service of Lokpal and Lokayukta.

5. (1) Every person appointed as the Lokpal or a Lokayukta shall hold office for a term of five years from the date on which he enters upon his office but shall not be eligible for reappointment.

Provided that—

- (a) the Lokpal or a Lokayukta may, by writing under his hand addressed to the Governor, resign his office;
- (b) the Lokpal or a Lokayukta may be removed from office in the manner specified in Section 6.

(2) If the office of the Lokpal or a Lokayukta becomes vacant or if the Lokpal or a Lokayukta is, by reason of absence or for any other reason whatsoever, unable to perform the duties of his office, those duties shall, until some other person appointed under Section 3 enters upon such office or, as the case may be, until the Lokpal or such Lokayukta resumes his duties, be performed,—

- (a) where the office of the Lokpal becomes vacant or where he is unable to perform the duties of his office, by the Lokayukta or if there are two or more Lokayuktas by such one of the Lokayuktas as the Governor may by order direct;
- (b) where the office of a Lokayukta becomes vacant or where he is unable to perform the duties of his office by the Lokpal himself, or if the Lokpal so directs by the other Lokayukta or, as the case may be, such one of the other Lokayuktas as may be specified in the direction.

(3) Save as otherwise provided in sub-section (1) on ceasing to hold office, the Lokpal or a Lokayukta shall be ineligible for further employment under the State Government or for any employment under or office in any such local authority, corporation, Government Company or Society.

(4) There shall be paid to the Lokpal and the Lokayuktas such salaries as are specified in the Second Schedule.

(5) The allowances and other conditions of service of the Lokpal or a Lokayukta, shall be such as may be prescribed;

Provided that—

- (a) in prescribing the allowance and other conditions of service of the Lokpal, regard shall be had to the allowances and other conditions of service of the Chief Justice of the High Court of Orissa;
- (b) in prescribing the allowances and other conditions of service of the Lokayuktas regard shall be had to the allowances and other conditions of service of a Judge of the High Court of Orissa;

Provided further that the allowance and other conditions of service of the Lokpal or Lokayukta shall not be varied to his disadvantage after his appointment.

Removal of
Lokpal or
Lokayukta.

6. (1) Subject to the provisions of Article 311 of the Constitution, the Lokpal or a Lokayukta may be removed from his office by the Governor on the ground of misbehaviour or incapacity and on no other ground:

Provided that the inquiry required to be held under clause (2) of the said article before such removal shall be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or of a High Court other than the High Court of Orissa.

(2) The person appointed under the proviso to sub-section (1) shall submit the report of his inquiry to the Governor.

(3) Notwithstanding anything contained in sub-section (1), the Governor shall, before removing the Lokpal or a Lokayukta, consult—

(a) in the case of Lokpal, the Chief Justice of the High Court of Orissa and the Leader of the opposition in the State Legislature; and

(b) in the case of a Lokayukta, the Lokpal.

Matters
which may
be investi-
gated by
Lokpal or
Lokayukta.

7. (1) Subject to the provisions, of this Act, the Lokpal may investigate any action which is taken by or with the general or specific approval of,—

(i) a Minister or the Chief Secretary or a Secretary; or

(ii) any other public servant being a public servant of a class or sub-class of public servants notified by the State Government in consultation with the Lokpal in this behalf;

in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokpal, the subject of a grievance or an allegation.

(2) Subject to the provisions of this Act, a Lokayukta may investigate any action which is taken by or with the general or specific approval of, any public servant not being a Minister, the Chief Secretary or a Secretary or other public servant referred to in sub-section (1) in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokayukta, the subject of a grievance or any allegation.

(3) Notwithstanding anything contained in sub-section (2) the Lokpal may for reasons to be recorded in writing, investigate any action which may be investigated by a Lokayukta under that sub-section whether or not a complaint has been made to the Lokpal in respect of such action.

(4) Where two or more Lokayuktas are appointed under this Act, the Lokpal may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by a Lokayukta under this Act and no action taken or thing done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

Matters not
subject to
investiga-
tion.

8. (1) Except as hereinafter provided, the Lokpal or a Lokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action,—

(a) if such action relates to any matter specified in the Third Schedule; or

(b) if the complainant has or had any remedy by way of proceeding before any Tribunal or Court of law;

Provided that the Lokpal or a Lokayukta may conduct an investigation notwithstanding that the complainant had or has such remedy, if the Lokpal or as the case may be, the Lokayukta is satisfied that such person could not or cannot, for sufficient cause, have recourse to such remedy.

(2) The Lokpal or a Lokayukta shall not investigate any actions—

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants' Inquiries Act, 1950; or 37 of 1950.

(b) in respect of a matter which has been referred for inquiry under the Commission of Inquiry Act, 1952, 60 of 1952.

and all such cases shall be mentioned in the annual report presented under sub-section (6) of Section 12.

(3) The Lokpal or a Lokayukta shall not investigate any complaint involving a grievance against a public servant referred to in sub-clause (iii) of clause (1) of Section 2

(4) The Lokpal or a Lokayukta shall not investigate—

(a) any complaint involving a grievance, if the complaint is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant; and

(b) any complaint involving an allegation, if the complaint is made after the expiry of five years from the date on which the action complained against is alleged to have taken place.

Provided that the Lokpal or a Lokayukta may entertain a complaint referred to in clause (a), if the complainant satisfies him that he had sufficient cause for not making the complaint within the period specified in that clause.

(5) In the case of any complaint involving a grievance nothing in this Act shall be construed as empowering the Lokpal or a Lokayukta to question any administrative action involving the exercise of a discretion except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion cannot be regarded as having been properly exercised.

Provisions
relating to
complaints.

9. (1) Subject to the provisions of this Act, a complaint may be made under this Act, to the Lokpal or a Lokayukta—

(a) in the case of a grievance, by the person aggrieved;

(b) in the case an allegation by any person other than a public servant;

Provided that where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any person who is authorised by him in this behalf.

(2) Every complaint shall be made in such form and shall be accompanied by such affidavits and other documents including fees as may be prescribed.

(3) Notwithstanding anything contained in any other enactment any letter written to the Lokpal or a Lokayukta by a person in police custody, or in a gaol or in any asylum or other place for insane persons shall be forwarded to the addressee unopened and without delay by the police officer or other person in-charge of such gaol, asylum or other place.

(4) If upon receipt of a letter under sub-section (3) the Lokpal or, as the case may be, the Lokayukta is of the view that there exists a *prima facie* case for a grievance or an allegation and that action under this Act can be taken thereon, he shall require the person who has written the letter to file a complaint in accordance with the provisions contained in sub-section (2) within such reasonable period, not being less than one month, as he may fix failing which he may reject the letter.

Procedure
in respect of
investigation

10. (1) Where the Lokpal or a Lokayukta proposes after making such preliminary inquiry as he deems fit to conduct any investigation under this Act, he—

(a) shall forward a copy of the complaint or in the case of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor, to the public servant concerned and the competent authority concerned;

(b) shall afford to the public servant concerned an opportunity to offer his comments on such complaint or statement; and

- (c) may make such orders as to the safe custody of documents relevant to the investigation as he deems fit.

(2) Every such investigation shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation :

Provided that the Lokpal or a Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so.

(3) Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokpal, or as the case may be, the Lokayukta considers, appropriate in the circumstances of the case.

(4) The Lokpal or a Lokayukta may, in his discretion refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if in his opinion—

- (a) the complaint is frivolous or vexatious or is not made in good faith or
- (b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation ; or
- (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies:

Provided that the Lokpal or a Lokayukta shall not refuse to investigate or cease to investigate any complaint on the ground mentioned in clause (c) without making preliminary investigation on the complaint and in all such cases he shall furnish a report about the preliminary investigation to the Governor.

(5) In any case where the Lokpal or a Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

(6) The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

Evidence.

11. (1) Subject to the provisions of this section, for the purpose of any investigation or any preliminary inquiry or investigation under this Act, the Lokpal or a Lokayukta may require any public servant or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purposes aforesaid the Lokpal or a Lokayukta shall have all the powers of the Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examinations of witnesses or documents;
- (e) requisitioning any public record or copy thereof from any Court or office;
- (f) such other matters as may be prescribed.

(3) Any proceeding before the Lokpal or Lokayukta shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Indian Penal Code.

45 of 1908.

(4) Subject to the provisions of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant whether imposed by any enactment or by any rule

of law, shall apply to the disclosure of information for the purpose of any investigation under this Act and the Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings.

(5) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document—

(a) as might prejudice the security or defence or international relations of India (including India's relations with the Government of any other country with any international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Council of Minister or any Committee of that Council;
and for the purpose of this sub-section a certificate issued by the Chief Secretary or any other Secretary authorised by him in that behalf certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b) shall be binding and conclusive.

(6) Without prejudice to the provisions of sub-section (4), no person shall be compelled for the purposes of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a Court.

Report of
Lokpal and
Lokayuktas.

12.(1) If, after investigation of any action in respect of which a complaint involving a grievance has been or can be or could have been made, the Lokpal or a Lokayukta is satisfied that such action has resulted in injustice or undue hardship to the complainant or any other person, he shall, by a report, in writing, recommend to the public servant and the competent authority concerned that such injustice or undue hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

(2) The competent authority to whom a report is sent under sub-section (1) shall within one month of the expiry of the term specified in the report intimate or cause to be intimated to the Lokpal, or, as the case may be, Lokayukta of the action taken for compliance with the report.

(3) If, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have been made the Lokpal or Lokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall by a report in writing, communicate findings and recommendations along with the relevant documents, materials and other evidence to the competent authority.

(4) The competent authority shall examine the report forwarded to it under sub-section (3) and intimate within three months of the date of receipt of the report, the Lokpal or, as the case may be, the Lokayukta, the action taken or proposed to be taken on the basis of the report.

(5) If the Lokpal or the Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3), he shall close the case under information to the complainant, the public servant and the competent authority concerned but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant concerned:

Provided that no such special report shall be made in respect of any action taken in consultation with the Public Service Commission.

(6) The Lokpal and Lokayuktas shall present annually a consolidated report on the performance of their functions under this Act to the Governor.

(7) Where any adverse comment against any person or Department or Organisation has been made in any annual or special report, such report shall also contain the substance of the defence adduced by the person complained against and the comments made by or on behalf of the Department or Organisation affected.

(8) On receipt of a special report under sub-section (5), or the annual report under sub-section (6), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the State Legislature.

(9) Subject to the provisions sub-section (2) of Section 10, the Lokpal may at his discretion make available from time to time, the substance of cases closed or otherwise disposed of by him or by a Lokayukta, which may appear to him to be of general public, academic or professional interest, in such manner and to such persons as he may deem appropriate.

(10) If after investigation of any such action as aforesaid, the Lokpal or a Lokayukta is satisfied that the complaint in respect of the action is not substantiated, he shall by a report in writing, communicate his findings to the competent authority and the complainant.

Report of Lokpal against the Chief Minister. 13. (1) If the Chief Minister receives a report of Lokpal in respect of a complaint involving a grievance or an allegation against himself, he shall, notwithstanding anything contained to the contrary in Section 12, forward it immediately with an elucidatory note, if any, to the Governor.

(2) The Governor shall after considering the report of the Lokpal and the elucidatory note, if any, take such action or pass such orders as he deems fit or expedient and cause copies of the report, elucidatory note, if any, and of the order passed by him to be laid on the table of the State Legislative Assembly.

Staff of Lokpal and Lokayuktas. 14. (1) The Lokpal may appoint, or authorise a Lokayukta or any officer subordinate to the Lokpal or a Lokayukta to appoint, officers and other employees to assist the Lokpal and the Lokayuktas in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokpal and Lokayuktas shall be such as may be prescribed after consultation with the Lokpal.

(3) Without prejudice to the provisions of sub-section (1), the Lokpal or a Lokayukta may, for the purpose of conducting investigations under this Act, utilise the services of,—

(i) any officer or investigation agency of the State Government with the concurrence of that Government; or

(ii) any other person or agency.

Secrecy Information.

15. (1) Any information, obtained by the Lokpal or the Lokayuktas or members of their staff in the course of, or for the purposes of any investigation under this Act; and any evidence recorded or collected in connection with such information, shall subject to the provisions of the proviso to sub-section (2) of section 10, be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, 1 of 1872 no Court shall be entitled to compel the Lokpal or a Lokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to disclosure of any information or particulars,—

(a) for purposes of investigation or in any report to be made thereon or for any action or proceedings to be taken on such report;

(b) for purposes of any proceedings for an offence under the Indian Official Secrets Act, 1923, or an offence of perjury or for purposes of any proceedings under Section 15; or

(c) for such other purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may give notice in writing to the Lokpal or a Lokayukta, as the case may be, with respect to any document or information specified in the notice or any class of documents so specified that in the opinion of the State Government the disclosure of the documents or information or of documents or information of that class would be contrary to public interest and where such a notice is given, nothing in this Act shall be construed as authorising or requiring the Lokpal, the Lokayukta or any member of their staff to communicate to any person any such document or information specified in the notice or any document or information of a class so specified.

(4) No person shall publish any proceedings relating to an investigation which is pending before the Lokpal or a Lokayukta, as the case may be, nor shall any person publish such proceedings after the investigation is completed.

(5) Whoever contravenes the provisions of sub-section (4) shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(6) Nothing in sub-sections (4) and (5) shall apply to the publication of any report laid before the State Legislature under sub-section (8) of Section 12.

Intentional insult or of Lokpal or a Lokayukta, while the Lokpal or the Lokayukta is conducting any investigation under this Act, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Lokpal or Lokayukta, (2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other Act, which is calculated to bring the Lokpal or Lokayukta into disrepute shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(3) The provisions of Section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said Section 199 subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction—

(a) in the case of an offence against the Lokpal, of the Lokpal;

(b) in the case of an offence against a Lokayukta, of the Lokayukta concerned.

Protection. 17. (1) No suit, prosecution, or other legal proceeding shall lie against the Lokpal or the Lokayuktas or against any officer, employees, agency or person referred to in Section 14 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceedings of the Lokpal or the Lokayuktas shall be deemed to be invalid by reason only of a defect or infirmity in his appointment or with the conduct of the proceedings.

(3) Except on the ground of jurisdiction, no proceedings or decision of the Lokpal or the Lokayuktas shall be liable to be challenged, reviewed, quashed or called in question in any Court of Tribunal.

Conferment of additional functions on Lokpal and Lokayuktas. 18. (1) The Governor may, after consultation with the Lokpal and by notification confer on the Lokpal or a Lokayukta, as the case may be, such additional functions in relation to the redress of grievance and eradication of corruption as may be specified in the notification.

(2) The Governor may, by order in writing and after consultation with the Lokpal confer on the Lokpal or a Lokayukta such powers of a supervisory nature over agencies set up or authorities constituted or officers appointed by the State Government for the redress of grievance and eradication of corruption.

(3) The Governor may, by order in writing and subject to such conditions and limitations as may be specified in the order, require the Lokpal to investigate any action (being action in respect of which a complaint may be made under this Act to the Lokpal or Lokayukta), and notwithstanding anything contained in this Act, the Lokpal shall comply with such order:

Provided that the Lokpal may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act to a Lokayukta) to a Lokayukta.

(4) When any additional functions are conferred on the Lokpal or a Lokayukta under sub-section (1), or when the Lokpal or a Lokayukta is to investigate any action under sub-section (3), the Lokpal or Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving a grievance an allegation, as the case may be, and the provisions of this Act shall apply accordingly.

Power to
delegate.

19. The Lokpal or a Lokayukta may, by general or special order in writing direct that any powers or duties of administrative nature conferred or imposed on him by or under this Act (except the power to make reports under section 12) may also be exercised or discharged by such of the officers, employees or agencies referred to in section 14, as may be specified in the order.

Power to
make rules.

20. (1) The State Government may, make rules for the purpose of carrying out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for—

- (a) the authorities for the purpose required to be prescribed under sub-clause (ii) of clause (c) of section 2;
- (b) the allowances and other conditions of service of the Lokpal and Lokayuktas;
- (c) the time within which, and the form in which, complaints may be made and the documents which shall accompany such complaints;
- (d) the powers of a Civil Court which may be exercised by the Lokpal or a Lokayukta;
- (e) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the State Government necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the State Legislature for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the said period the Legislature agrees in making any modification in the rule or in the annulment in the rule, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or any annulment shall be without prejudice to the validity of anything previously done under that rule.

Removal of
doubts.

21. For the removal of doubts it is hereby declared that nothing in this Act shall be construed to authorise the Lokpal or a Lokayukta to investigate any action which is taken by or with the approval of—

- (a) any Judge as defined in section 19 of the Indian Penal Code;
- (b) any officer or servant of any court;
- (c) the Chairman or a Member of the Public Service Commission;
- (d) the Chief Election Commissioner or the Regional Commissioner referred to in Article 324 of the Constitution having jurisdiction in the State;
- (e) the Speaker and the Deputy Speaker of Legislative Assembly;
- (f) the Chairman, Vice-Chairman or the member of the Orissa Administrative Tribunal;

Provided that where a complaint in respect of any action taken by or with the approval of any officer or servant of any Court, other than the Judge or Presiding Officer of the Court, is filed before the Lokpal or a Lokayukta, he shall forward the same to the Chief Justice of the High Court of Orissa with a request to communicate the action, if any, taken on the complaint to the State Government.

savings.

22. (1) Notwithstanding anything contained in this Act and the Orissa Lokpal and Lokayuktas (Repeal) Act, 1992,—

- (i) any complaint involving a grievance or an allegation or investigation which was pending before the Lokpal immediately before the repeal of the Orissa Lokpal and Lokayuktas Act, 1970 shall be deemed to be validly subsisting; and

Orissa Act
33 of 1992.

Orissa Act
1 of 1971.

- (#) investigation, proceeding or remedy in relation to any right, privilege, obligation, liability, penalty, forfeiture or punishment which was pending, under the repealed Act referred to in clause (i), shall be continued or as the case may be, enforced.

For the purposes of this Act.

(2) The provisions of this Act shall be in addition to the provisions of any other enactment or any rule of law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act in respect of any action, and nothing in this Act shall limit or affect the right of such person to avail of such remedy.

THE FIRST SCHEDULE

I, having been appointed
 Lokpal do swear in the name of God
 a Lokayukta solemnly affirm that I will
 bear true faith and allegiance to the Constitution of India as by law established and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill.

THE SECOND SCHEDULE

There shall be paid to the Lokpal and Lokayuktas, in respect of time spent on actual service, salary at the following rates per mensem, that is to say—

Lokpal	9,000 rupees
Lokayukta	8,000 rupees

Provided that if the Lokpal or a Lokayukta at the time of his appointment is in receipt of, or has become entitled to, receive a pension (other than a disability or wound pension) from the Government of India or from the Government of a State, his salary in respect of service as the Lokpal or, as the case may be, a Lokayukta shall be reduced—

- (a) by the amount of that pension; and
- (b) if he has, before such appointment, received in lieu of a portion of the aforementioned pension the commuted value thereof, by the amount of that portion of the pension.

THE THIRD SCHEDULE

(a) Action taken in matter certified by a Secretary as affecting the relations or dealings between the Government of India and any Foreign Government or any International Organisation of States or Governments.

(b) Action taken under the Extradition Act, 1962, or the Foreigners Act, 1946. 34 of 1962.
31 of 1946.

(c) Action taken for the purpose of investigating crime or protecting the security of the State including action taken with respect to passports and travel documents.

(d) Action taken in the exercise of powers in relation to determining whether a matter shall go to a Court or not.

(e) Action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers, except where the complainant alleges harassment or gross delay in meeting contractual obligations.

(f) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.

(g) Grant of honours and awards.

***THE ORISSA LOKPAL AND LOKAYUKTAS (AMENDMENT) ACT, 2005**
(ORISSA ACT 12 OF 2005)

[Received the assent of the Governor on the 6th September 2005, first published in an extraordinary issue of the *Orissa Gazette*, dated the 19th October 2005 (No. 1713)]

**AN ACT FURTHER TO AMEND THE ORISSA LOKPAL AND
LOKAYUKTAS ACT, 1995**

BE it enacted by the Legislature of the State of Orissa in the Fifty-sixth Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Lokpal and Lokayuktas (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on the 29th day of August, 2003.

Amendment
to Second
Schedule.

2. In the Orissa Lokpal and Lokayuktas Act, 1995, in the Second Schedule, for the figures "9,000" and "8,000" appearing against the entries Lokpal and lokayuktas respectively, the figures "30,000" and "26,000" shall be substituted.

Orissa Act
8 of 1995.

*For the Bill, see *Orissa Gazette*, Extraordinary, dated the 1st August, 2005 (No. 1231)